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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/125,747 08/25/98 TOROSSIAN

F TORO-0101-PU

HM22/1004

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EXAMINER

DEVI, S

ART UNIT

PAPER NUMBER

1641

DATE MAILED: 10/04/99

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

**Office Action Summary**Application No.  
08/125,747

Applicant(s)

Torossian

Examiner

S. Devi, Ph.D.

Group Art Unit

1641

☒ Responsive to communication(s) filed on Apr 13, 1999☐ This action is **FINAL**.☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire one month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

**Disposition of Claims**☒ Claim(s) 1-8 ☒ are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.☐ Claim(s) \_\_\_\_\_ is/are rejected.☐ Claim(s) \_\_\_\_\_ is/are objected to.☒ Claims 1-8 are subject to restriction or election requirement.**Application Papers**☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.☐ The specification is objected to by the Examiner.☐ The oath or declaration is objected to by the Examiner.**Priority under 35 U.S.C. § 119**☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).**Attachment(s)**☐ Notice of References Cited, PTO-892☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_☐ Interview Summary, PTO-413☐ Notice of Draftsperson's Patent Drawing Review, PTO-948☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

**Election/Restriction**

- 1) **Please Note:** In an effort to enhance communication with our customers and reduce processing time, Group 1640 is running a Fax Response Pilot for Written Restriction Requirements. A dedicated Fax machine is in place to receive your responses. The Fax number is 703-305-3704. A Fax cover sheet is attached to this Office Action for your convenience. We encourage your participation in this Pilot program. If you have any questions or suggestions please contact Donald E. Adams, Ph.D., Supervisory Patent Examiner at Donald.Adams@uspto.gov or 703-308-0570. Thank you in advance for allowing us to enhance our customer service. Please limit the use of this dedicated Fax number to responses to Written Restrictions.
- 2) Restriction to one of the following inventions is required under PCT Rule 13.1 and 13.2:
- I. Claims 1-6, drawn to an immunomodulatory complex, classified in class 424, subclass 182.1
  - II. Claim 7, drawn to an anti-*Helicobacter* vaccine complex, classified in class 530, subclass 387.1
- 3) Claim 8 is poorly written. Since it is not clear which claim it depends from, this claim is currently not included in any of these invention groups. Applicant is asked to amend the claim to properly depend by identifying the "preceding claim" by claim number.
- 4) Inventions I and II lack unity of invention due to the absence of a special technical feature. Invention I is drawn to the first product, an immunomodulatory complex comprising a dual molecule whereas invention II is drawn to an anti-*Helicobacter* immunomodulatory complex. The two products clearly differ from each other structurally, functionally and in their biological properties and effects. Clearly, the special technical feature of the two inventions are not linked and therefore the inventions lack unity. Further, the inventions have acquired a separate status in the art as shown by their different classifications/subclassifications and divergent subject matter.
- 5) Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 C.F.R.

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1.143).


6) Applicant is reminded that upon cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filled petition under C.F.R. 1.48(b) and by the fee required under 37 C.F.R. 1.17(h).

7) Any inquiry concerning this communication or earlier communications from the Examiner should be directed to S. Devi whose telephone number is (703) 308-9347. The Examiner can normally be reached on Monday to Friday from 7.45 a.m. to 4.15 p.m.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, James Housel, can be reached on (703) 308-4027.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

September 1999

  
10/4/99  
JAMES C. HOUSEL  
SUPERVISORY PATENT EXAMINER



# RESTRICTION ELECTION FACSIMILE TRANSMISSION

DATE:

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